

## REMARKS

### Status of Prosecution

Claims 1-25 are pending in the present application.

In the Office Action mailed by the Examiner on January 28, 2008 the Examiner rejected claims 1-25 under 35 U.S.C. §103(a), arguing that the claims are obvious over Published U.S. Patent Application 2003/0144929 to Wakamatsu published on July 31, 2003 ("Wakamatsu Application") in view of U.S. Patent No. 6,282,274 to Jain, *et al.* issued on August 28, 2001 ("Jain Patent").

On August 20, 2008 Applicants filed a reply to the office action, and included replacement drawing sheets to convert approved but informal figures to formal figures.

On February 17, 2009 the Office mailed a second nonfinal office action conceding that Applicants had overcome the previous claim rejections, but advancing new rejections of claims 1-25 under 35 U.S.C. §103(a), arguing that (1) the claims are obvious over Published U.S. Patent Application 2005/0086138 to Prange published April 21, 2005 ("Prange Application"), and (2) are obvious under 35 U.S.C. §103(a) over the Prange Application in view of Published U.S. Patent Application 2002/0042715 to Kelley published April 11, 2002 ("Kelley Application").

This paper is in reply to the second nonfinal office action identified above ("Office Action").

In view of the arguments of Applicants in this paper, Applicants request that the Examiner withdraw the rejections of the pending claims, and issue a notice of allowance.

### First Rejection under 35 U.S.C §103(a)

In paragraphs 3-4 of the Office Action the Examiner rejected claims 1-25 under 35 U.S.C. §103(a), arguing that the claims are obvious over the Prange Application. The Prange Application is sometimes referred to in this paper as the Primary Reference.

35 U.S.C. §103 provides:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was

made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

In the Office Action the Examiner cites the Prange Application as the Primary Reference for the rejections of claims 1-3, 6-7, 9-13, 16, 18-21 and 24 under 35 U.S.C. §103(a).

Applicant respectfully submits that the Prange Application is not a valid reference for the rejections of the Examiner for at least the following reasons:

A. The Primary Reference was filed as U.S. Application No. 10/500,593 on June 29, 2004. The Primary Reference claims priority to an earlier filed PCT application filed January 9, 2002.

B. The application under examination ("Application") was filed on July 31, 2003.

C. 35 U.S.C. §102(a) precludes a patent if the invention was "described in a printed publication in this or a foreign country before the invention...by applicant." As indicated in Exhibit A, the WIPO publication date for the Primary Reference was July 17, 2003. The Application under examination was filed July 31, 2003. Applicants enclose as Exhibits B1 and B2 declarations as provided in 37 CFR §1.131 and MPEP §715 confirming that prior to July 17, 2003 an invention disclosure was tendered to Qualcomm, thus establishing inventorship prior to the publication date of the Primary Reference.

D. The critical terms of 35 U.S.C. §102(e)(1) pose the question whether the Primary Reference is an [1] application for patent [2] published under section 122(b) [3] by another (inventive entity) [4] filed in the United States [5] before the invention by the applicant. The U.S. application corresponding to the Primary Reference was filed in the U.S. on June 29, 2004, a date well after the invention date of the invention disclosed in the Application under examination. Therefore, §102(e)(1) is inapplicable.

E. The critical terms of 35 U.S.C. §102(e)(2) includes as a predicate for that provision to be operative the granting of a patent. A patent has not been granted in connection with the primary reference: see Exhibit C. Therefore, §102(e)(2) also is inapplicable.

F. It follows, therefore, that the enclosed declaration confirming inventorship in connection with the application occurred before the PCT publication date of July 17, 2003 is dispositive of the Office Action because the examiner's obviousness rejection under 35 U.S.C.

§103 cites the Primary Reference either standing alone (paragraphs 3-3 of the Office Action) or in view of the Primary Reference over the Kelley reference.

**Second Rejection under 35 U.S.C §103(a)**

In paragraph 5 of the Office Action the Examiner rejected claims 4-5, 8, 14-15, 17, 22-23 and 25 under 35 U.S.C. §103(a), arguing that the claims are obvious over the Prange Application in view of the Kelley Application.

A. Because the Primary Reference fails as a valid reference, it follows that neither the Primary Reference nor the Auxiliary Reference, alone or in combination, provides a *prima facie* basis for rejection of the claims under examination.

B. Regarding rejection of dependent claims, if an independent claim is nonobvious under §103, then any claim depending therefrom is also nonobvious. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

**Conclusion**

For at least the foregoing reasons, Applicants respectfully request that the Examiner withdraw the rejections because all pending claims in the Application are patentable.

Accordingly, reconsideration and allowance of this application are earnestly solicited. Applicant submits that all pending claims in the application are patentable.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: August 14, 2009

By: 

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San Diego, California 92121  
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EXHIBIT A



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WIPO Publication	WIPO Publication Date	Full-Text and Image
WO 2003/058940	07-17-2003	<a href="#">View</a>

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## (WO/2003/058940) SEPARATE INVOICING OF PRIVATE AND SERVICE-RELATED CONVERSATIONS ON MOBILE TELEPHONES

Biblio. Data    Description    Claims    National Phase    Notices    Documents

Latest bibliographic data on file with the International Bureau

Pub. No.: WO/2003/058940    International Application No.: PCT/DE2002/000040  
Publication Date: 17.07.2003    International Filing Date: 09.01.2002  
Chapter 2 Demand Filed: 18.04.2002

IPC: H04M 15/00 (2006.01)

Applicants: SIEMENS AKTIENGESELLSCHAFT [DE/DE]; Wittelsbacherplatz 2, 80333 München (DE) (All Except US);  
PRANGE, Stefan [DE/DE]; (DE) (US Only).

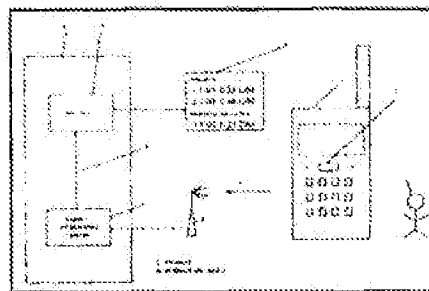
Inventor: PRANGE, Stefan; (DE).

Agent: SIEMENS AKTIENGESELLSCHAFT; Postfach 22 16 34, 80506 München (DE).

Title: (EN) SEPARATE INVOICING OF PRIVATE AND SERVICE-RELATED CONVERSATIONS ON MOBILE TELEPHONES  
(DE) GETRENNTE VERRECHNUNG VON PRIVAT- UND DIENSTGESPRÄCHEN BEI MOBILTELEFONEN

Abstract: (EN) According to the invention, ergonomic and efficient billing of service-related and private conversations can be achieved by a method for billing (8) a conversation (4) carried out by a user (1) of a mobile radio terminal (1) using said mobile radio terminal and a mobile radio network. The inventive method is characterised in that following an input (2) of the user (1) into the mobile radio terminal, indicating whether a conversation is to be billed as service-related or private, a message representing said input (2) is sent (4) to the mobile radio network (5).

(DE) Eine ergonomische und effiziente Gebührung von dienstlichen und privaten Gesprächen wird ermöglicht durch ein Verfahren zur Vergebührung (8) eines von einem Nutzer (1) eines Mobilfunkendgerätes (3) über das Mobilfunkendgerät und ein Mobilfunknetz (6) geführtes Gespräch (4) dadurch gekennzeichnet, dass auf eine vom Mobilfunkendgerät (3) festgestellte Eingabe (2) des Nutzers (1) dahingehend, ob ein Gespräch (4) als dienstlich oder privat abzurechnen ist, eine diese Eingabe (2) repräsentierende Nachricht an das Mobilfunknetz (5) gesandt (4) wird.



Designated States: AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CR, CU, CZ, DE, DK, DM, DZ, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW  
African Regional Intellectual Property Org. (ARIPO) (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW)  
Eurasian Patent Organization (EAPO) (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM)  
European Patent Office (EPO) (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, TR)  
African Intellectual Property Organization (OAPI) (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG)

Publication Language:

German (DE)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/633,143 )  
Examiner: Hayles, Ashford S. )  
Filed: 07/31/2003 )  
Group No. 3687 )

REPLY TO OFFICE ACTION  
MAILED BY THE EXAMINER ON FEBRUARY 17, 2009

**DECLARATION UNDER 37 C.F.R. 1.131**

1. Thomas Doyle, declare as follows:

1. I am an inventor of the subject matter described and claimed in the above-identified U.S. Patent Application Serial Number.

2. Prior to at least July 17, 2003 I, along with my co inventor, conceived the apparatus and methods described and claimed in the claims pending in connection with the patent application; and that I proceeded with due diligence from prior to July 17, 2003 until the constructive reduction to practice of the invention by the filing of U.S. Application No. 10/633,143 on July 31, 2003.

3. Prior to at least July 17, 2003 I, along with my co inventors, presented to my employer, QUALCOMM Incorporated, a written invention disclosure documenting my conception of the invention. A copy of the written invention disclosure, with the date redacted as contemplated by MPEP §715, is attached to this document as Exhibit 1 in compliance with MPEP §715.

4. I further declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

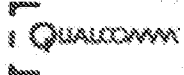

\_\_\_\_\_/Thomas Doyle/\_\_\_\_\_

Inventor: Thomas Doyle

\_\_\_\_\_/June 22, 2009/\_\_\_\_\_


Dated

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#### Defensive Pubs

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### > Documents

#### Related Art

### > Additional Fields

### > Related Records

Invention Number: 81588489 [View Disclosure](#)

Historic Number: 020475

File By Date:

Status: Filed

Received Date:

Short Title: Method and Apparatus for Providing Separable Billing Services

Responsible Manager: Patel Ashish L.

Originating Country: United States of America

Originating Company: Qualcomm Enterprise Services

	Type	Date	Author	Description	Recipient	Location	Status	Links	Edit Desc.
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Survey Id: 13765

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**MAIN SECTION****(Required) Title:**

The Title of the invention

Access Control and Separation of Business versus Personal Usage for Mobile Cellular Calling

**Keywords:**

Keywords

**Description of the problem solved and the advantage(s) of the invention:**

Solution

Commercial vehicle operators often wish to provide their drivers with cellular telephones. There is often an issue because the driver may utilize the telephone for unauthorized personal use. Although calling control has been implemented on customized devices by various companies, such as the OmniExpress system from QUALCOMM, an appropriate access control system has not been developed on standard cellular phones. This invention provides a solution utilizing standard phones.

**Description of how others have solved the stated problem:**

Others

Not aware that it has been solved other than through custom devices.

**Brief description of the invention:**

Brief Description

The cellular phone is programmed so that it will only call an access control server. The phone server has most or all of the attributes of a typical credit and/or debit calling system. In addition, the server has an ability to form an association between each inbound cellular telephone call and the company owning that phone, either through caller ID or through an ID that is transmitted from the phone. The server also has the ability for the owner(s) of the phones to submit lists of the authorized telephone numbers that their phones may call for business purposes. If the user enters a telephone number to call that matches an authorized number, the server processes the call and records it as being billable to the owner of the phone. If it does not match, the user may be given the opportunity to place a personal call by using a personal credit or debit account. Finally, other forms of calling control for the owner-billable calls can be considered, such as duration control.

**Description of how the invention solves the stated problem and achieves the stated advantage(s):**

Advantage

Provides a server based method for calling access control using standard cellular phones.

**Date simulation was completed on:**

Historical Simulation Date

**Date final simulation was completed:**

Historical Test Date

**Date device was completed on:**

Date device was completed on:

**Related invention disclosures, patent applications and patents:**

Disclosures

**Attachments included?:**

Attachment flag

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- ☒ Developed or implemented while performing work under government or other contract?  
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No

- ☒ Project Name:  
Project Name

- ☒ Project & Product Manager:  
Project & Product Manager

- ☒ Account Charged:  
Account Charged

- ☒ Inventors:  
Inventors  
Idoyle

**INVENTORS**

Name	Email	Phone	Approved	%
Doyle Thomas F	tdoyle@qualcomm.com			0
Lauer Craig B	clauer@qualcomm.com			0

**TERMS AND CONDITIONS**

Version Number / Text

**DOCUMENTS**

Document/Title	Date	Document Type
020475PTO1449011805.doc	20 Jan 2005	Image
020475IDSPC011805.doc	20 Jan 2005	Image
020475IDISR011805.doc	20 Jan 2005	Image
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/633,143 )  
Examiner: Hayles, Ashford S. )  
Filed: 07/31/2003 )  
Group No. 3687 )

REPLY TO OFFICE ACTION  
MAILED BY THE EXAMINER ON FEBRUARY 17, 2009

## DECLARATION UNDER 37 C.F.R. 1.131

I, Craig Lauer, declare as follows:

1. I am an inventor of the subject matter described and claimed in the above-identified U.S. Patent Application Serial Number.
2. Prior to at least July 17, 2003 I, along with my co inventor, conceived the apparatus and methods described and claimed in the claims pending in connection with the patent application; and that I proceeded with due diligence from prior to July 17, 2003 until the constructive reduction to practice of the invention by the filing of U.S. Application No. 10/633,143 on July 31, 2003.
3. Prior to at least July 17, 2003 I, along with my co inventors, presented to my employer, QUALCOMM Incorporated, a written invention disclosure documenting my conception of the invention. A copy of the written invention disclosure, with the date redacted as contemplated by MPEP §715, is attached to this document as Exhibit 1 in compliance with MPEP §715.

4. I further declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.



Inventor: Craig Lauer

8/12/09

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

































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**Invention Number:** 81088489 [View Disclosure](#)  
**Historic Number:** 020475  
**File By Date:**  
**Status:** Filed  
**Received Date:**

**Short Title:** Method and Apparatus for Providing Separable Billing Services  
**Responsible Manager:** Patel Ashish L.  
**Originating Country:** United States of America  
**Originating Company:** Qualcomm Enterprise Services

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## MAIN SECTION



## (Required) Title:

The Title of the invention

Access Control and Separation of Business versus Personal Usage for Mobile Cellular Calling



## Keywords:

Keywords



## Description of the problem solved and the advantage(s) of the invention:

Solution

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## Date simulation was completed on:

Historical Simulation Date



## Date final simulation was completed:

Historical Test Date



## Date device was completed on:

Date device was completed on:



## Related invention disclosures, patent applications and patents:

Disclosures



## Attachments included?:

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- ☒ Developed or implemented while performing work under government or other contract?  
Contract Flag

No

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Project Name

- ☒ Project & Product Manager:  
Project & Product Manager

- ☒ Account Charged:  
Account Charged

- ☒ Inventors:  
Inventors  
tdoyle

**INVENTORS**

Name	Email	Phone	Approved	%
Doyle Thomas F	tdoyle@qualcomm.com			0
Lauer Craig B	clauer@qualcomm.com			0

**TERMS AND CONDITIONS**

Version Number / Text

**DOCUMENTS**

Document/Title	Date	Document Type
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020475IDISR011805.doc	20 Jan 2005	Image
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020475ASN2022304.doc	21 Mar 2004	Image
020475DEC022304.doc	21 Mar 2004	Image
020475MP022304.doc	21 Mar 2004	Image
020475TRANSUTILAPP073103.doc	01 Aug 2003	Image
020475APP073103.doc	01 Aug 2003	Image

EXHIBIT C



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10/500,593

Separate invoicing of private and service-related conversations on mobile telephones



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## Bibliographic Data

Application Number:	10/500,593	Customer Number:	-
Filing or 371 (c) Date:	06-29-2004	Status:	Non Final Action Mailed
Application Type:	Utility	Status Date:	02-06-2009
Examiner Name:	CHAMPAGNE, LUNA	Location:	ELECTRONIC
Group Art Unit:	3627	Location Date:	-
Confirmation Number:	4731	Earliest Publication No:	US 2005-0086138 A1
Attorney Docket Number:	0119010-00066	Earliest Publication Date:	04-21-2005
Class / Subclass:	705/034	Patent Number:	-
First Named Inventor:	Stefan Prange, Munchen, (DE)	Issue Date of Patent:	-

Title of Invention: Separate invoicing of private and service-related conversations on mobile telephones

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## Transaction History

Date	Transaction Description
02-09-2009	Mail Non-Final Rejection
02-02-2009	Non-Final Rejection
06-29-2004	Information Disclosure Statement considered
01-09-2008	Change in Power of Attorney (May Include Associate POA)
01-08-2008	Correspondence Address Change
09-27-2007	Case Docketed to Examiner in GAU
02-24-2007	IFW TSS Processing by Tech Center Complete
02-24-2007	Case Docketed to Examiner in GAU
06-29-2004	Information Disclosure Statement (IDS) Filed
06-29-2004	Preliminary Amendment
06-29-2004	Information Disclosure Statement (IDS) Filed
06-29-2004	Information Disclosure Statement (IDS) Filed
01-06-2005	Cleared by OIPE CSR
01-06-2005	Cleared by OIPE CSR
07-09-2004	371 Completion Date
12-17-2004	Application Dispatched from OIPE
12-17-2004	Notice of DO/EO Acceptance Mailed
06-29-2004	Initial Exam Team nn

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